

## **1. TITLE**

This Ordinance shall be known as the Solid Waste and Recycling Ordinance for the Town of Dayton, Maine and referred to herein as the “Ordinance”.

## **2. AUTHORITY**

This Ordinance is adopted pursuant to the Town’s Home Rule Powers under Article VIII-A of the Maine Constitution, 30-A MRSA §3001, *et seq.*, and 38 MRSA §1304 and §1305.

## **3. PURPOSE**

The purposes of this Ordinance are:

- A. To allow the Town to regulate the disposal of solid waste, to ensure that wastes are properly and cost effectively separated, collected, transported and disposed of, to adhere to State and federal environmental regulations and statutes, and to effectively manage the Town’s transfer station facility.
- B. To control the costs of solid waste management and to more fairly allocate the costs of waste disposal to those who generate the waste.
- C. To allow the Town to encourage the recycling of solid waste materials to ensure that State goals regarding recycling are met, and to lessen degradation to the environment by reducing the volume of waste placed in landfills or burned at waste-to-energy plants.

## **4. ADMINISTRATION**

This Ordinance shall be administered by the Municipal Officers and/or their designees, with the powers and duties as follow:

- A. To institute all necessary procedures, either legal or equitable, to enforce this Ordinance.
- B. To review any alleged violations of this Ordinance, and, after notice and hearing as required, to impose appropriate penalties for any such violations.
- C. To provide education on a continuing basis concerning the methods of solid waste disposal and recycling, including any change in disposal and recycling requirements.
- D. To provide necessary pickup and disposal contracts, consistent with the best cost and service.
- E. To establish reasonable rules and regulations relating to curbside pickup, recycling, and the operation of the Transfer Station.

## 5. DEFINITIONS

Except as otherwise set forth herein, all words and terms used in this Ordinance shall have their ordinary meanings. Words in the present tense include the future, the plural shall include the singular, and the masculine and/or feminine shall include the other. The following words and terms shall have the meanings as follow:

- A.     Acceptable Curbside Waste. All non-commercial ordinary household and municipal solid wastes which consist primarily of combustible materials and are not listed under the definition of Unacceptable Waste.
- B.     Approved Disposal Facility. Any land area or structure, or combination of land area and structure used to legally dispose of waste. Such facility may include, but is not limited to, a landfill, transfer station, indoor storage facility, salvage yard, recycling center, compost facility and incinerator.
- C.     Approved Container. A container or bin approved by the Town used for the purpose of collecting household waste and recyclable materials.
- D.     Board. The Board of Selectmen for the Town of Dayton, also known as the Municipal Officers.
- E.     Commercial Establishment. Any commercial business, industrial facility or structure containing five or more dwelling units not defined as a “residence” in this Ordinance.
- F.     Commercial Hauler. Any person, firm, company, corporation or other legal entity that collects and/or transports waste of any kind as a business, or for compensation, operating within the Town of Dayton.
- G.     Compost Material. Material privately stored for decomposition by natural means, including, but not limited to, horticultural waste such as grass clippings and other fibers, vegetables and other food waste, meat and fish waste.
- H.     Construction and Demolition Debris. Solid waste resulting from construction, remodeling, repair, and demolition of structures, including but is not limited to: lumber bricks, masonry, shingles, building materials, discarded furniture, asphalt, insulation, wall board, pipes, metal structures, and metal conduits and other similar materials. Construction and demolition debris does not include partially filled containers of glues, tar, solvents, resins, paints, or caulking compounds, friable asbestos, and other Special or Hazardous wastes.
- I.     Hazardous Waste. Waste with inherent properties which make such waste dangerous to manage by ordinary means, including, but not limited to, chemicals, explosives, pathological wastes, radioactive wastes and other wastes defined as hazardous at any time by the State of Maine or the Resource Conservation and Recovery Act of 1976, as amended, or Federal, State or local laws, regulations, orders, or other actions promulgated or taken with respect thereto.

- J. Person. Any individual, firm, corporation, partnership, association, municipality, quasi-municipal corporation, school, State agency or any other legal entity.
- K. Recyclable Materials. Items that possess physical and economic characteristics which allow them to be recovered, separated, collected or reprocessed for sale or reuse other than use as fuel for generation of heat steam or electricity. These items include but are not limited to newspapers, magazines, phone books, mail, cereal boxes, used envelopes, white paper, colored paper, flattened and banded cardboard, paper bags, bottles, cans, glass and #1 and #2 plastic.
- L. Recycling. The separating, collecting and/or processing of Recyclable Materials.
- M. Residence. Any home, apartment or condominium. The term, "residence," shall not include motels, hotels, rooming houses, tourist cottages and similar establishments; structures containing five or more dwelling units; and any commercial or industrial establishment.
- N. Solid Waste. Any acceptable discarded or unwanted solid organic or inorganic material with insufficient liquid content to be free flowing.
- O. Special Waste. Any solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. To the extent not included in the definition of Hazardous Waste, Special Waste includes, but is not limited to:
1. Oil, coal, wood and multifuel boiler and incinerator ash;
  2. Industrial and industrial process waste;
  3. Waste water treatment plant sludge, paper mill sludge and other sludge waste;
  4. Debris and residuals from nonhazardous chemical spills and their cleanup;
  5. Contaminated soils and dredge spoils;
  6. Asbestos and asbestos-containing waste;
  7. Sand blast grit and nonliquid paint waste;
  8. High and low pH waste;
  9. Spent filter media and residue; and
  10. Other waste designated by the Board by rule.

- P. Town. The Town of Dayton, Maine.
- Q. Town Hauler. The Person or firm contracted or designated by the Town to collect and transport solid waste and/or recyclable materials from residences.
- R. Transfer Station. The facility designated by the Town for the processing of Acceptable Waste and Recyclables generated and collected in the Town but not collected as part of the curbside collection program or part of a collection and disposal agreement.
- S. Unacceptable Waste. Includes the following materials:
1. Hazardous waste;
  2. Special waste;
  3. Bulk Construction and Demolition Debris from building and roadway projects or locations;
  4. Liquid wastes or sludge;
  5. Abandoned or junk vehicles;
  6. Dead animals, or portions thereof, medical or pathological wastes;
  7. Water treatment residues;
  8. Tree stumps;
  9. Waste oil;
  10. Automobile batteries; and
  11. White goods.
- T. Universal Waste. Radios, televisions, other electronic elements, materials containing mercury, cadmium and lead such as rechargeable batteries, cathode ray tubes, fluorescent lamps, mercury thermostats, motor vehicle switches, PCB ballasts and thermometers.
- U. White Goods and Scrap Metal. All large appliances, including by example and not limited to, stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers and air conditioners and all scrap metal, including by example and not by limitation, wire, metal fencing, sheet metals, clean metal barrels and bar stock.

## **SECTION 6. COLLECTION, TRANSPORTATION, RECYCLING, AND DISPOSAL OF SOLID WASTE FROM RESIDENCES.**

- A. The Board is hereby granted the authority, after a duly noticed public hearing, to establish rules and regulations to govern the collection, transportation, separation, recycling and disposal of solid wastes generated by or located on the premises of Residences. Rules and regulations may be enacted to implement any aspect of solid waste requirements for Residences and Commercial Establishments within the Town. The rules and regulations shall be reviewed and revised as required to satisfy the needs of the Town, changes in State and federal laws and regulations and costs the Town may incur to provide Solid Waste management services to Residences. The Board of Selectmen shall establish an effective date for rules and regulations which are adopted. The rules and regulations shall be kept on file in the office of the Town Clerk.

Universal Waste, Special Waste and Hazardous Waste shall be disposed of at an Approved Disposal Facility licensed and certified to handle such wastes.

Unacceptable waste is not to be disposed of within the Town and shall be removed by the owner and shall be disposed of at an Approved Disposal Facility licensed and certified to handle such waste.

- B. The Board shall ensure that all Residences of the Town will be provided with curbside collection service for Solid Waste. The Board shall be authorized to enter into any contract necessary and to prescribe rules and regulations necessary to provide this service, including but not limited to the method and frequency for collection of household waste and Recyclable Materials, Approved Container size(s), and amount of household waste allowed per Residence.
- C. To ensure that State goals for recycling are met, the Board may institute a program for the voluntary or mandatory recycling of Recyclable Materials. The Town may provide for the curbside collection of recyclable materials to all Residences within the Town, and may provide for the collection of recyclable materials from Commercial Establishments without charge.
- D. Acceptable Curbside Waste and Recyclable Materials will only be collected from public roads unless otherwise designated by the Town. Residents on private ways must bring their Acceptable Curbside Waste and Recyclable Materials to a collection point at the intersection of the public way with the private way.

## **SECTION 7. COLLECTION, TRANSPORTATION, RECYCLING AND DISPOSAL OF SOLID WASTE FROM COMMERCIAL ESTABLISHMENTS**

Commercial Establishments are required to ensure that all Solid Wastes generated by or on the premises of the Commercial Establishment are properly collected, transported, separated, recycled and/or disposed of in accordance with the provisions of this Ordinance and the laws of the State of Maine.

The Town of Dayton shall not be responsible for the collection and/or transportation of Commercial Waste.

No Commercial Establishment shall permit the unreasonable accumulation of Solid Wastes in or upon the premises of the Commercial Establishment which in the opinion of the Code Enforcement Officer is unsanitary or hazardous to the health of the public or is a nuisance, or, in the opinion of the Fire Chief, constitutes a fire hazard. Any owner or occupant of a Commercial Establishment upon whose premises any unlawful accumulation of Solid Waste may be found shall, within 24 hours after receiving written notification from the Code Enforcement Officer, cause the same to be removed from the premises in a manner satisfactory to the Code Enforcement Officer.

## **SECTION 8. TRANSFER STATION**

- A. The Board is hereby granted authority, after a duly noticed public hearing, to establish, operate and maintain a Transfer Station, together with rules and regulations for the operation of the Transfer Station. The need for a Transfer Station and the rules and regulations for its operation shall be reviewed and revised as required to satisfy the needs of the Town, changes in State and federal law and the economics and necessity of operating the Transfer Station.
- B. Such rules and regulations shall address the operation of the Transfer Station, including but not limited to the following:
  - 1. The person(s) responsible for supervising the operation of the Transfer Station;
  - 2. The hours of operation; and
  - 3. The fees for use of the Dayton Transfer Station and the method of paying such fees.
- C. The Transfer Station shall be authorized to accept the following:
  - 1. Construction and Demolition Debris; and
  - 2. White Goods and Scrap Metal.
- D. The Transfer Station shall not be authorized to accept the following:
  - 1. Grubbing stumps and tree butts;
  - 2. Septic sludge, pesticides and chemicals;
  - 3. Hazardous Waste;
  - 4. Special Waste;
  - 5. Excessive brush unless prior approval is obtained from the person responsible for supervising the Transfer Station operations;
  - 6. Dead animals or portions thereof or other pathological wastes;
  - 7. Waste not generated in the Town;

8. Household waste;

9. Partially filled containers of glues, tar, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes; and

10. Other wastes identified by the Board by rule.

- E. Once deposited at the Transfer Station, all items of waste shall become the property of the Town and no picking of such waste, including metal or other recyclable materials is permitted from the Transfer Station.

## **SECTION 9. LICENSING**

### **A. Issuance of Licenses.**

1. No person, firm or corporation shall accumulate, collect, store, transport or dispose of Acceptable Waste or Unacceptable Waste generated within the Town without first obtaining a license from the Board, except that a person, firm or corporation that accumulates, collects, stores, transports or disposes of less than 2 ton(s) per month of its own waste shall not be required to obtain such a license.

2. Any person, firm or corporation required by this Ordinance to obtain a license shall make application to the Board, providing the information required. Each initial application shall be accompanied by an annual, non-refundable application fee as set by the Board's fee schedule.

3. The application shall contain all information required by the Board, including but not limited to a description of the activity(ies) engaged in, e.g., collection, transporting, or disposal of Acceptable and/or Unacceptable Waste; type and amount of waste handled in each service area; description of the facility(ies) operated and used; and equipment inventory, including for vehicles a description - the make, model and year of each vehicle used for the collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the Board determines the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Board shall be informed immediately in writing of any changes in or additions to equipment, including vehicles.

4. An applicant for a license under this section shall demonstrate that it meets the following criteria:

- a) Financial capacity to perform as proposed in the application.
- b) Technical capacity (including vehicles and other equipment) to perform as proposed in the application and as required under this Ordinance.
- c) Adequate liability, collision and workers' compensation insurance coverage.
- d) Safety record (including compliance with state and local motor vehicle laws, ordinances and regulations) so as not to be a danger to public health, safety and welfare.

5. Licenses shall not be transferable. In the event of an emergency or vehicle breakdown, a licensee shall be issued a special license for a satisfactory replacement vehicle, upon furnishing of all information required for a licensed vehicle.

6. All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this Ordinance.

7. The annual license fee for each vehicle licensed or for each applicant licensed for activities not involving the transport of solid waste shall be as set by the Board's fee schedule. License fees shall not be refunded in the event that a license is suspended or revoked.

8. In the event the Board denies a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in Subsection C.

**B. Suspension and Revocation**

Any license issued may be suspended or revoked by order of the Board after benefit of a hearing in accordance with the procedures in Subsection C, for the following causes:

- 1. Violation of this Ordinance.
- 2. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this Ordinance.
- 3. Violation of any license condition(s).
- 4. Falsehoods, misrepresentations or omissions in the license application.



### C. Hearings

1. Anyone denied a license pursuant to Subsection A or whose license is suspended, or revoked pursuant to Subsection B, shall be entitled to a hearing before the Board if such request is made in writing within ten (10) days of the denial, suspension or revocation.
2. Such hearing shall be held within thirty (30) days after receipt of the written request for a hearing.
3. The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
4. A determination shall be made by the Board within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.
5. The Board's final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than ten (10) days after the date notice of such final determination has been mailed by registered mail, return receipt requested, to the applicant and shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in this Ordinance.
6. Any controversy or claim arising out of or relating to the Board's determination shall be directly reviewable by Superior Court pursuant to M. R. Civ. P., Rule 80B.

### **SECTION 10. PENALTIES**

Any person, firm or corporation who violates any provision of this Ordinance shall be subject to a civil penalty of \$100.00 for each violation, payable to the Town. Each day a violation is continued is a separate offense. Such person, firm or corporation who violates any provision of this Ordinance shall also be liable for court costs and the Town's reasonable attorney's fees associated with such violation.

## **SECTION 11. ENFORCEMENT**

- A. All provisions of this Ordinance are enforceable by the Board and the Code Enforcement Officer.
- B. Whenever the Board or the Code Enforcement Officer determines there has been a violation of this Ordinance by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested.
  - 1. The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.
  - 2. The citation may contain an outline of remedial action, which, if taken, will effect compliance.
  - 3. The citation shall state that unless corrections are made within the allotted time, the violation is subject to prosecution and/or to license revocation or suspension pursuant to the provisions of this Ordinance.

## **SECTION 12. REPEAL**

All ordinances and parts of ordinances inconsistent with this Ordinance are hereby repealed.

## **SECTION 13. EFFECTIVE DATE**

This Ordinance shall be effective upon its approval by Town vote.

## **SECTION 14. SEVERABILITY**

The provisions of this Ordinance shall be severable and if any phrase, clause, sentence or provision, or the application thereof to any person or circumstances shall be held invalid, the remainder of this Ordinance and the application thereof shall not be affected thereby.